

## CHAPTER 61—PENAL AND FORFEITURE PROVISIONS

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### AMENDMENTS

1991—Pub. L. 102-40, title IV, §402(c)(1), May 7, 1991, 105 Stat. 239, renumbered items 3501 to 3505 as 6101 to 6105, respectively.

1959—Pub. L. 86-222, §3(b), Sept. 1, 1959, 73 Stat. 453, added item 3505.

### § 6101. Misappropriation by fiduciaries

(a) Whoever, being a guardian, curator, conservator, committee, or person legally vested with the responsibility or care of a claimant or a claimant's estate, or any other person having charge and custody in a fiduciary capacity of money heretofore or hereafter paid under any of the laws administered by the Secretary for the benefit of any minor, incompetent, or other beneficiary, shall lend, borrow, pledge, hypothecate, use, or exchange for other funds or property, except as authorized by law, or embezzle or in any manner misappropriate any such money or property derived therefrom in whole or in part and coming into such fiduciary's control in any manner whatever in the execution of such fiduciary's trust, or under color of such fiduciary's office or service as such fiduciary, shall be fined in accordance with title 18, or imprisoned not more than five years, or both.

(b) Any willful neglect or refusal to make and file proper accountings or reports concerning such money or property as required by law shall be taken to be sufficient evidence prima facie of such embezzlement or misappropriation.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1239, §3501; Pub. L. 99-576, title VII, §701(82), Oct. 28, 1986, 100 Stat. 3298; renumbered §6101, Pub. L. 102-40, title IV, §402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102-54, §14(d)(7), June 13, 1991, 105 Stat. 286; Pub. L. 102-83, §4(a)(1), Aug. 6, 1991, 105 Stat. 403; Pub. L. 103-446, title XII, §1201(e)(17), Nov. 2, 1994, 108 Stat. 4686.)

### AMENDMENTS

1994—Subsec. (a). Pub. L. 103-446 inserted a comma after "title 18".

1991—Pub. L. 102-40 renumbered section 3501 of this title as this section.

Subsec. (a). Pub. L. 102-83 substituted "administered by the Secretary" for "administered by the Veterans' Administration".

Pub. L. 102-54 amended subsec. (a) as in effect immediately before the enactment of Pub. L. 102-40 by substituting "in accordance with title 18" for "not more than \$2,000".

1986—Subsec. (a). Pub. L. 99-576 substituted "a claimant's" for "his" before "estate", and "such fiduciary's" for "his" in three places.

### § 6102. Fraudulent acceptance of payments

(a) Any person entitled to monetary benefits under any of the laws administered by the Secretary whose right to payment thereof ceases upon the happening of any contingency, who thereafter fraudulently accepts any such pay-

ment, shall be fined in accordance with title 18, or imprisoned not more than one year, or both.

(b) Whoever obtains or receives any money or check under any of the laws administered by the Secretary without being entitled to it, and with intent to defraud the United States or any beneficiary of the United States, shall be fined in accordance with title 18, or imprisoned not more than one year, or both.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1239, §3502; renumbered §6102, Pub. L. 102-40, title IV, §402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102-54, §14(d)(7), June 13, 1991, 105 Stat. 286; Pub. L. 102-83, §4(a)(1), Aug. 6, 1991, 105 Stat. 403.)

### AMENDMENTS

1991—Pub. L. 102-40 renumbered section 3502 of this title as this section.

Pub. L. 102-83 substituted "administered by the Secretary" for "administered by the Veterans' Administration" in subsecs. (a) and (b).

Pub. L. 102-54 amended section as in effect immediately before the enactment of Pub. L. 102-40 by substituting "in accordance with title 18" for "not more than \$2,000" in subsecs. (a) and (b).

### § 6103. Forfeiture for fraud

(a) Whoever knowingly makes or causes to be made or conspires, combines, aids, or assists in, agrees to, arranges for, or in any way procures the making or presentation of a false or fraudulent affidavit, declaration, certificate, statement, voucher, or paper, concerning any claim for benefits under any of the laws administered by the Secretary (except laws pertaining to insurance benefits) shall forfeit all rights, claims, and benefits under all laws administered by the Secretary (except laws pertaining to insurance benefits).

(b) Whenever a veteran entitled to disability compensation has forfeited the right to such compensation under this section, the compensation payable but for the forfeiture shall thereafter be paid to the veteran's spouse, children, and parents. Payments made to a spouse, children, and parents under the preceding sentence shall not exceed the amounts payable to each if the veteran had died from service-connected disability. No spouse, child, or parent who participated in the fraud for which forfeiture was imposed shall receive any payment by reason of this subsection. An apportionment award under this subsection may not be made in any case after September 1, 1959.

(c) Forfeiture of benefits by a veteran shall not prohibit payment of the burial allowance, death compensation, dependency and indemnity compensation, or death pension in the event of the veteran's death.

(d)(1) After September 1, 1959, no forfeiture of benefits may be imposed under this section or section 6104 of this title upon any individual who was a resident of, or domiciled in, a State at the time the act or acts occurred on account of which benefits would, but not for this subsection, be forfeited unless such individual ceases to be a resident of, or domiciled in, a State before the expiration of the period during which criminal prosecution could be instituted. This subsection shall not apply with respect to (A) any forfeiture occurring before September 1,

1959, or (B) an act or acts which occurred in the Philippine Islands before July 4, 1946.

(2) The Secretary is hereby authorized and directed to review all cases in which, because of a false or fraudulent affidavit, declaration, certificate, statement, voucher, or paper, a forfeiture of gratuitous benefits under laws administered by the Secretary was imposed, pursuant to this section or prior provisions of law, on or before September 1, 1959. In any such case in which the Secretary determines that the forfeiture would not have been imposed under the provisions of this section in effect after September 1, 1959, the Secretary shall remit the forfeiture, effective June 30, 1972. Benefits to which the individual concerned becomes eligible by virtue of any such remission may be awarded, upon application therefor, and the effective date of any award of compensation, dependency and indemnity compensation, or pension made in such a case shall be fixed in accordance with the provisions of section 5110(g) of this title.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1240, §3503; Pub. L. 86-222, §1, Sept. 1, 1959, 73 Stat. 452; Pub. L. 91-24, §13(a), June 11, 1969, 83 Stat. 34; Pub. L. 92-328, title II, §206, June 30, 1972, 86 Stat. 397; Pub. L. 98-160, title VII, §703(6), Nov. 21, 1983, 97 Stat. 1011; Pub. L. 99-576, title VII, §701(83), Oct. 28, 1986, 100 Stat. 3298; renumbered §6103 and amended Pub. L. 102-40, title IV, §402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102-54, §14(d)(8), June 13, 1991, 105 Stat. 286; Pub. L. 102-83, §4(a)(1), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403-405; Pub. L. 103-446, title XII, §1201(e)(18), (f)(5), Nov. 2, 1994, 108 Stat. 4686, 4687.)

#### AMENDMENTS

1994—Subsec. (d)(1). Pub. L. 103-446, §1201(e)(18), in second sentence substituted “(A) any” for “(a) any”, “(B) an act” for “(b) an act”, and “before July 4, 1946” for “prior to July 4, 1946”.

Subsec. (d)(2). Pub. L. 103-446, §1201(f)(5), substituted “June 30, 1972” for “the date of enactment of this amendatory Act”.

1991—Pub. L. 102-40, §402(b)(1), renumbered section 3503 of this title as this section.

Subsec. (a). Pub. L. 102-83, §4(a)(1), substituted “administered by the Secretary” for “administered by the Veterans’ Administration” in two places.

Subsec. (b). Pub. L. 102-54, §14(d)(8)(A), amended subsec. (b) as in effect immediately before the enactment of Pub. L. 102-40 by inserting at end “An apportionment award under this subsection may not be made in any case after September 1, 1959.”

Subsec. (d)(1). Pub. L. 102-40, §402(d)(1), substituted “6104” for “3504”.

Subsec. (d)(2). Pub. L. 102-83, §4(b)(1), (2)(E), substituted “Secretary” for “Administrator” in three places.

Pub. L. 102-83, §4(a)(1), substituted “administered by the Secretary” for “administered by the Veterans’ Administration”.

Pub. L. 102-40, §402(d)(1), substituted “5110(g)” for “3010(g)”.

Subsec. (e). Pub. L. 102-54, §14(d)(8)(B), amended section as in effect immediately before the enactment of Pub. L. 102-40 by striking out subsec. (e) which read as follows: “No apportionment award under subsection (b) of this section shall be made in any case after the date of enactment of this subsection.”

1986—Subsec. (c). Pub. L. 99-576, §701(83)(A), substituted “the veteran’s” for “his”.

Subsec. (d)(2). Pub. L. 99-576, §701(83)(B), substituted “the Administrator” for “he” in two places in second sentence.

1983—Subsec. (b). Pub. L. 98-160 substituted “the right” for “his right”, “the veteran’s spouse” for “his wife”, and “spouse” for “wife” in two places.

1972—Subsec. (d). Pub. L. 92-328 designated existing provisions as par. (1) and added par. (2).

1969—Subsec. (d). Pub. L. 91-24 substituted “September 1, 1959” for “the date of enactment of this subsection” wherever appearing.

1959—Subsecs. (d) and (e). Pub. L. 86-222 added subsecs. (d) and (e).

#### EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-328 effective June 30, 1972, see section 301(c) of Pub. L. 92-328, set out as a note under section 3713 of this title.

#### § 6104. Forfeiture for treason

(a) Any person shown by evidence satisfactory to the Secretary to be guilty of mutiny, treason, sabotage, or rendering assistance to an enemy of the United States or of its allies shall forfeit all accrued or future gratuitous benefits under laws administered by the Secretary.

(b) The Secretary, in the Secretary’s discretion, may apportion and pay any part of benefits forfeited under subsection (a) to the dependents of the person forfeiting such benefits. No dependent of any person shall receive benefits by reason of this subsection in excess of the amount to which the dependent would be entitled if such person were dead.

(c) In the case of any forfeiture under this section there shall be no authority after September 1, 1959 (1) to make an apportionment award pursuant to subsection (b) or (2) to make an award to any person of gratuitous benefits based on any period of military, naval, or air service commencing before the date of commission of the offense.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1240, §3504; Pub. L. 86-222, §2, Sept. 1, 1959, 73 Stat. 452; Pub. L. 91-24, §13(b), June 11, 1969, 83 Stat. 34; Pub. L. 97-295, §4(78), Oct. 12, 1982, 96 Stat. 1311; Pub. L. 99-576, title VII, §701(84), Oct. 28, 1986, 100 Stat. 3298; renumbered §6104, Pub. L. 102-40, title IV, §402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102-83, §4(a)(1), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403-405.)

#### AMENDMENTS

1991—Pub. L. 102-40 renumbered section 3504 of this title as this section.

Subsec. (a). Pub. L. 102-83, §4(b)(1), (2)(E), substituted “Secretary” for “Administrator”.

Pub. L. 102-83, §4(a)(1), substituted “administered by the Secretary” for “administered by the Veterans’ Administration”.

Subsec. (b). Pub. L. 102-83, §4(b)(1), (2)(E), substituted “Secretary” for “Administrator” and “Secretary’s” for “Administrator’s”.

1986—Subsec. (b). Pub. L. 99-576 substituted “the Administrator’s” for “his” and “the dependent” for “he”.

1982—Subsec. (a). Pub. L. 97-295 inserted “to” before “be guilty”.

1969—Subsec. (c). Pub. L. 91-24 substituted “September 1, 1959” for “the date of enactment of this subsection”.

1959—Subsec. (c). Pub. L. 86-222 added subsec. (c).

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6103 of this title.

#### § 6105. Forfeiture for subversive activities

(a) Any individual who is convicted after September 1, 1959, of any offense listed in subsection

(b) of this section shall, from and after the date of commission of such offense, have no right to gratuitous benefits (including the right to burial in a national cemetery) under laws administered by the Secretary based on periods of military, naval, or air service commencing before the date of the commission of such offense and no other person shall be entitled to such benefits on account of such individual. After receipt of notice of the return of an indictment for such an offense the Secretary shall suspend payment of such gratuitous benefits pending disposition of the criminal proceedings. If any individual whose right to benefits has been terminated pursuant to this section is granted a pardon of the offense by the President of the United States, the right to such benefits shall be restored as of the date of such pardon.

(b) The offenses referred to in subsection (a) of this section are those offenses for which punishment is prescribed in—

(1) sections 894, 904, and 906 of title 10 (articles 94, 104, and 106 of the Uniform Code of Military Justice);

(2) sections 792, 793, 794, 798, 2381, 2382, 2383, 2384, 2385, 2387, 2388, 2389, 2390, and chapter 105 of title 18;

(3) sections 222, 223, 224, 225, and 226 of the Atomic Energy Act of 1954 (42 U.S.C. 2272, 2273, 2274, 2275, and 2276); and

(4) section 4 of the Internal Security Act of 1950 (50 U.S.C. 783).

(c) The Secretary of Defense or the Secretary of Transportation, as appropriate, shall notify the Secretary in each case in which an individual is convicted of an offense listed in paragraph (1) of subsection (b). The Attorney General shall notify the Secretary in each case in which an individual is indicted or convicted of an offense listed in paragraph (2), (3), or (4) of subsection (b).

(Added Pub. L. 86-222, §3(a), Sept. 1, 1959, 73 Stat. 453, §3505; amended Pub. L. 92-128, §2(c), Sept. 25, 1971, 85 Stat. 348; Pub. L. 93-43, §8, June 18, 1973, 87 Stat. 88; Pub. L. 97-295, §4(79), Oct. 12, 1982, 96 Stat. 1311; renumbered §6105, Pub. L. 102-40, title IV, §402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102-54, §14(d)(9), June 13, 1991, 105 Stat. 287; Pub. L. 102-83, §4(a)(1), (2)(A)(xiv), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403-405; Pub. L. 103-446, title XII, §1201(e)(19), Nov. 2, 1994, 108 Stat. 4686.)

#### AMENDMENTS

1994—Subsec. (c). Pub. L. 103-446 substituted “paragraph (2), (3), or (4) of subsection (b)” for “clauses (2), (3), or (4) of subsection (b) of this section” and “paragraph (1) of subsection (b)” for “clause (1) of that subsection” and transposed the first and second sentences.

1991—Pub. L. 102-40 renumbered section 3505 of this title as this section.

Subsec. (a). Pub. L. 102-83, §4(a)(2)(A)(xiv), substituted “Secretary” for “Veterans’ Administration” in second sentence.

Pub. L. 102-83, §4(a)(1), substituted “administered by the Secretary” for “administered by the Veterans’ Administration” in first sentence.

Subsec. (c). Pub. L. 102-83, §4(b)(1), (2)(E), substituted “Secretary” for “Administrator” in two places.

Pub. L. 102-54 amended subsec. (c) as in effect immediately before the enactment of Pub. L. 102-40 by substituting “clauses (2),” for “clauses (1),” “Secretary of

Transportation, as” for “Secretary of the Treasury, as may be”, and “clause (1) of that subsection” for “clause (2) of subsection (b) of this section”.

1982—Subsec. (a). Pub. L. 97-295, §4(79)(A), substituted “September 1, 1959,” for “the date of enactment of this section”.

Subsec. (b). Pub. L. 97-295, §4(79)(B), substituted pars. (1), (2), and (3) for cls. (2), (1), and (3), respectively, and inserted citations to the United States Code.

1973—Subsec. (a). Pub. L. 93-43 inserted “(including the right to burial in a national cemetery)” after “gratuitous benefits” in first sentence.

1971—Subsec. (b)(4). Pub. L. 92-128 substituted “in section 4 of the Internal Security Act of 1950” for “in the following sections of the Internal Security Act of 1950; sections 4, 112, and 113”.

#### EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-43 effective June 18, 1973, see section 10(a) of Pub. L. 93-43, set out as an Effective Date note under section 2400 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2402 of this title.

## PART V—BOARDS, ADMINISTRATIONS, AND SERVICES

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#### AMENDMENTS

1991—Pub. L. 102-83, §2(d)(3), Aug. 6, 1991, 105 Stat. 402, added item for chapter 77.

Pub. L. 102-54, §14(e)(1), June 13, 1991, 105 Stat. 287, inserted “United States” before “Court of Veterans Appeals” in item for chapter 72.

Pub. L. 102-40, title IV, §§402(c)(2), 403(e)(1), (f)(2), May 7, 1991, 105 Stat. 239-241, substituted “BOARDS, ADMINISTRATIONS, AND SERVICES” for “BOARDS AND DEPARTMENTS” in part heading, renumbered section numbers by substituting “7101” for “4001” in item for chapter 71, “7251” for “4051” in item for chapter 72, and “7601” for “4301” in item for chapter 76, substituted “Veterans Health Administration—Organization and Functions” for “Department of Medicine and Surgery” and “7301” for “4101” in item for chapter 73, added item for chapter 74, struck out item for chapter 75 “Veterans’ Canteen Service”, and added item for chapter 78.

1988—Pub. L. 100-687, div. A, title III, §301(b), Nov. 18, 1988, 102 Stat. 4121, added item for chapter 72.

Pub. L. 100-322, title II, §216(e)(2), May 20, 1988, 102 Stat. 530, added item for chapter 76.

## CHAPTER 71—BOARD OF VETERANS' APPEALS

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